

REMARKS/ARGUMENTS

In the Office Action mailed August 16, 2007, claims 1-37 were rejected. In response, Applicant hereby requests reconsideration of the application in view of the amended claims and the below-provided remarks. No claims are canceled or added.

For reference, claims 1, 7, 14, 19, 22, 25, and 30 are amended. In particular, claims 1, 14, 19, 22, and 25 are each amended to recite a memory device. These amendments are supported, for example, by the subject matter described in paragraphs 44 (the memory 310 stores profiles, which include one or more parameters) and 59 (the memory 410 stores profiles, which include one or more parameters) of the specification, as well as Figures 3 and 4. Claims 7, 25, and 30 are amended to recite the other performance resource is the same type of performance resource as the reclaimed performance resource. These amendments are supported, for example, by original language of the claims.

Claim Rejections under 35 U.S.C. § 112, first paragraph

Claims 26-36 were rejected under 35 U.S.C. § 112, first paragraph, as purportedly failing to comply with the enablement requirement. In particular, the Office Action states that the “computer readable storage medium” is not described in the specification.

In order to properly support a rejection based on the enablement requirement of 112, first paragraph, the Office Action must present a factual analysis of the disclosure to show that a person skilled in the art would not be able to make and use the claimed invention without resorting to undue experimentation. MPEP 2164.06(c). Here, the Office Action does not address the ability of one skilled in the art to make and use the computer readable storage medium without resorting to undue experimentation. In fact, the Office Action does not provide any analysis related to the undue experimentation that might be required by one of ordinary skill in the art to make and use the computer readable storage medium recited in the claims. Rather, the Office Action merely asserts that the computer readable storage medium is not described in the specification. However, this reasoning does not present a factual analysis of the disclosure to show that a person skilled in the art would not be able to make and use the claimed invention

without resorting to undue experimentation. Therefore, Applicant respectfully submits that the Office Action does not establish a reasonable basis for questioning the adequacy of the disclosure under the enablement requirement of 112, first paragraph.

It appears, in contrast to the asserted basis for the rejection, that the Examiner's reasoning relates to the written description requirement of 112, first paragraph. However, despite the Office Action's characterization of the disclosure of the present application, the disclosure offers support for the computer readable storage medium. Although the disclosure may use other language to describe the computer readable storage medium, the MPEP recognizes that the subject matter of the claim need not be described literally using the exact same terms or in haec verba. MPEP 2163.02. Rather, the language employed in the claims may be supported by different language in the description of the specification. Moreover, the MPEP recognizes that there is a strong presumption that the original language of the claims is supported by an adequate written description in the specification. MPEP 2163.03. However, since the Office Action does not present a rejection based on the written description requirement of 112, first paragraph, Applicant submits that the reasoning presented above is sufficient to traverse the rejection of claims 26-36 based on the enablement requirement of 112, first paragraph. Accordingly, Applicant respectfully requests that the rejection of claims 26-36 based on the enablement requirement of 35 U.S.C. 112, first paragraph, be withdrawn.

Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 7, 25, and 30 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the claims were rejected because the claims recite "similar to."

Applicant submits that claims 7, 25, and 30 are amended to remove the phrase "similar to" from the limitations of the claims. Accordingly, Applicant respectfully requests that the rejection of claims 7, 25, and 30 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim Rejections under 35 U.S.C. § 101

Claims 1-37 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. In particular, the Office Action states that the components of the claims could be implemented by software alone, which is per se non-statutory.

In regard to claims 1-25, Applicant submits that claims 1, 14, 19, 22, and 25 are each amended to recite a memory device, which is a physical structure. Dependent claims 2-13, 15-18, 20, 21, 23, and 24 depend from and incorporate all of the limitations of the corresponding independent claims 1, 14, 19, 22, and 25. The recitation of a physical structure such as a memory device precludes the conclusion that the claims might recite software per se. Since these amendments clarify that the claims do not recite software per se, Applicant respectfully submits that these claims recite statutory material. Accordingly, Applicant respectfully requests that the rejections of claims 1-25 under 35 U.S.C. 101 be withdrawn.

In regard to claims 26-36, Applicant submits that these claims do not recite software per se, despite the characterization asserted the Office Action. In particular, claims 26-36 recite a computer readable storage medium. Examples of different types of computer readable storage media are provided, for example, in paragraphs 30-32 (e.g., storage devices and memory devices) of the specification. Additionally, the specification does not define the claimed computer readable storage medium as including transmission signals or carrier waves per se. Moreover, the Office Action's characterization of the computer readable storage medium as potentially a transmission signal or a carrier wave per se is contrary to the plain meaning of a storage medium. Accordingly, Applicants respectfully requests that the rejections of claims 26-36 under 35 U.S.C. 101 be withdrawn.

Applicant submits that claim 37 recites statutory material, despite the Office Action's assertion. In particular claim 37 recites several means for performing specified functions. Under 35 U.S.C. § 112, sixth paragraph, the recital of means without the recital of corresponding structure is understood to refer to corresponding structure described in the specification. Therefore, claim 37 recites structural limitations through the recitation of means for performing the specified functions. Accordingly, Applicant respectfully requests that the rejection of claim 37 under 35 U.S.C. § 101 be withdrawn.

Claim Rejections under 35 U.S.C. § 102/103

Claims 1-5, 8-10, 19, 22, 23, 26-28, 31-33, and 37 were rejected under 35 U.S.C. § 102(e) as being anticipated by Talwar et al. (U.S. Pat. Pub. No. 2005/0027863, hereinafter Talwar). Additionally, claims 6, 7, 12, 13, 20, 21, 24, 29, 30, 35, and 36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Talwar in view of Lumelsky et al. (U.S. Pat. No. 6,460,082, hereinafter Lumelsky). Additionally, claims 11, 14, 15, 17, 18, and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Talwar in view of Bartlett et al. (U.S. Pat. Pub. No. 2004/0064480, hereinafter Bartlett). Additionally, claims 16 and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Talwar in view of Bartlett and Lumelsky. However, Applicant respectfully submits that these claims are patentable over Talwar, Bartlett, and Lumelsky at least for the reasons provided below.

Claims 1-13

Applicant respectfully submits that claim 1 is patentable over the cited reference because Talwar does not disclose all of the limitations of the claim. Claim 1 recites “a global user input module configured to allow a user to input a parameter control request, the parameter control request corresponding to a performance parameter stored in a profile in a memory device of the grid computing system” (emphasis added).

In contrast, Talwar does not disclose inputting a parameter control request. Additionally, Talwar does not disclose a parameter control request corresponding to a performance parameter. Talwar merely describes allowing a user to submit a request for an interactive session. Talwar, paragraph 16, lines 1-3. The interactive session is an interaction between an end-user and a remote execution node. Talwar, paragraphs 14 (describes a global interactive session) and 15 (describes a per-application interactive session). The end-user can also specify a list of applications desired for the interactive session. Talwar, paragraph 28, lines 4-5. Talwar does not appear to describe any other types of requests from the end-user.

The interactive session request and the application request described in Talwar are not parameter control requests. As described in the specification of the present

application, and recited in the claim, the parameter control request corresponds to a performance parameter of the grid computing system. Exemplary types of performance parameters are described, including network performance parameters and client performance parameters. In contrast, Talwar does not describe the interactive session request or the application request as relating to any type of performance parameter of the grid computing system. Hence, the interactive session request and the application request are not parameter control requests. Therefore, Talwar does not disclose allowing a user to input a parameter control request, as recited in the claim. Accordingly, Applicant respectfully submits that claim 1 is patentable over Talwar because Talwar does not disclose all of the limitations of the claim.

Given that claims 2-13 depend from and incorporate all of the limitations of independent claim 1, which is patentable over the cited reference, Applicant respectfully submits that dependent claims 2-13 are also patentable over the cited reference based on an allowable base claim. Additionally, each of claims 2-13 may be allowable for further reasons. Accordingly, Applicant requests that the rejections of claims 1-13 under 35 U.S.C. § 102(e) and the rejections of claims 6, 7, and 11-13 under 35 U.S.C. § 103(a) be withdrawn.

Claims 14-37

Applicant respectfully asserts independent claims 14, 19, 22, 25, 26 and 37 are patentable over Talwar, either alone or in combination with Bartlett and/or Lumelsky, at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, each of claims 14, 19, 22, 25, 26, and 37 recites a parameter control request. Here, although the language of claims 14, 19, 22, 25, 26, and 37 differs from the language of claim 1, and the scope of each of claims 14, 19, 22, 25, 26, and 37 should be interpreted independently of claim 1, Applicant respectfully asserts that the remarks provided above in regard to the rejection of claim 1 also apply to the rejections of claims 14, 19, 22, 25, 26, and 37. Accordingly, Applicant respectfully asserts claims 14, 19, 22, 25, 26, and 37 are patentable over Talwar, either alone or in combination with Bartlett and/or Lumelsky, because Talwar does not disclose a parameter control request, as recited in the claims.

Given that claims 15-18, 20, 21, 23, 24, and 27-36 depend from and incorporate all of the limitations of the corresponding independent claims 14, 19, 22, 25, 26, and 37, which are patentable over the cited reference, Applicant respectfully submits that dependent claims 15-18, 20, 21, 23, 24, and 27-36 are also patentable over the cited reference based on allowable base claims. Additionally, each of claims 15-18, 20, 21, 23, 24, and 27-36 may be allowable for further reasons. Accordingly, Applicant requests that the rejections of claims 19, 22, 23, 25-28, 31-33, and 37 under 35 U.S.C. § 102(e) and the rejections of claims 14-18, 20, 21, 24, 29, 30, and 34-36 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Applicant respectfully requests reconsideration of the claims in view of the amendments and remarks made herein. A notice of allowance is earnestly solicited. If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact the attorney listed below

Respectfully submitted,

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